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UPOV

CAJ/III/9

ORIGINAL: English

DATE: April 25, 1979

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Third Session

Geneva, April 24 and 25, 1979

DRAFT REPORT

prepared by the Office of the UnionOpening of the Session

1. The third session of the Administrative and Legal Committee (hereinafter referred to as "the Committee") was held in Geneva on April 24 and 25, 1979. All the member States were represented. Of the non-member States invited, Canada, Ireland, Japan, Norway, Spain and the United States of America were represented by observers. The Commission of the European Communities was represented by observers. The list of participants is attached as Annex I to this document.

2. The session was opened by Dr. D. Böringer (Federal Republic of Germany), Chairman of the Committee, who welcomed the participants.

Adoption of the Agenda

3. The Committee adopted the agenda as appearing in document CAJ/III/1.

Adoption of the Report on the Committee's Second Session

4. The Committee unanimously adopted the report on its second session as appearing in document CAJ/II/8.

Progress of the Activities Relating to Plant Variety Protection in Japan

5. The Delegation of Japan informed the Committee that the revised Seeds and Seedlings Law of Japan had entered into force on December 28, 1978, and was already applicable to 365 genera and species. Applications for protection had already been filed in respect of more than 220 varieties. In April of the current year, a Seeds and Seedlings Division competent for plant variety protection and seed marketing matters had been created within the Ministry of Agriculture, Forestry and Fisheries. Finally, the Government of Japan was in the process of preparing that country's signature of the revised text of the Convention.

UPOV Model Form for the Transmittal of Examination Results

6. Discussions were based on document CAJ/III/5.

7. The Committee adopted a UPOV Model Form for the Invoicing of Examination Costs as reproduced in Annex II to this document, after having noted the following:

(i) each member State would design its own form under its own heading, so that the title of the UPOV Model Form would be omitted and relevant information would be included under "Conditions and mode of payment";

(ii) certain member States preferred an invoice for each examination report received, whereas others preferred periodical statements of account.

UPOV Model Form for the Designation of the Sample of the Variety

8. Discussions were based on document CAJ/III/6.

9. After having noted that a form for the designation of the sample of the variety was considered useful or indispensable by some member States only, the Committee adopted the UPOV Model Form as appearing in document CAJ/III/6.

UPOV Form for the Transmittal of Observations on a Submitted Variety Denomination

10. Discussions were based on document CAJ/III/7.

11. The Committee adopted the UPOV Form for the Transmittal of Observations on a Submitted Variety Denomination as appearing in Annex III to this document.

Conservation of Germ Plasm and Plant Variety Protection

12. Mr. H. Skov (Denmark) reported on an FAO/UNDP Government Consultation on the European Cooperative Programme on the Conservation and Exchange of Genetic Resources for Plant Breeding held recently in Rome, at which strong opposition to plant variety protection had been expressed. Since a meeting on the same subject was to be held at the UNDP in Geneva in December of the current year, delegates were asked to supply relevant information on plant variety protection to those of their national experts who would be participating in that meeting.

13. In this connection, the Committee also noted that the Office of the Union had been informed that a Canadian organization had launched a campaign against the introduction of legislation on plant variety protection in Canada and that the Office of the Union, after consultation with Canadian Government authorities, had addressed a letter to that organization, with copies to the Canadian Minister of Agriculture and to the Chief of the Seed Section within the Canadian Department of Agriculture. The Delegate of Canada expressed appreciation of the prompt action taken by the Office of the Union. The Delegate of the United States of America pointed out that, contrary to the allegations on which the campaign was based, plant variety protection was of great help for germ plasm conservation since it led to the establishment of precise variety descriptions.

14. Since severe criticism of plant variety protection had been expressed by FAO officials in both the above-mentioned cases, it was felt that the Consultative Committee should consider at its next session whether UPOV should approach FAO regarding the relationship between legislation on plant variety protection and the conservation of germ plasm.

Future Development of the Union

15. Discussions were based on document CAJ/III/2.

16. The discussion of the various items which might be considered for the future development of the Union showed that most participants welcomed action in this field, although a certain hesitation was sometimes expressed by individual Delegations in respect of some items. In conclusion, the Committee asked the Office of the Union to prepare a working paper containing a draft of a set of rules for a system of closer cooperation as described in document CAJ/III/2--with alternative proposals, where appropriate, and with a preliminary study of the financial implications--and incorporating a study on the harmonization of the legal provisions and procedural steps involved in plant variety protection. In the study of the harmonization of the scope of protection, the member States would assist the Office of the Union by supplying it with information concerning their present rules and practices.

Cooperation between UPOV and the Commission of the European Communities

17. The representatives of the Commission of the European Communities thanked UPOV for having given the Commission the opportunity to participate in the Committee's session. They recalled that the Commission had already expressed in writing its great interest in the activities of UPOV and in close cooperation with UPOV. Almost all the questions dealt with in document CAJ/III/2 were either directly or at least indirectly relevant to the EEC, in particular in view of the existing EEC regulations concerning the admission of varieties to the EEC Common Catalogues. Agreed working procedures and achievements--as far as necessary and possible--were therefore particularly welcomed by the Commission.

18. The Chairman thanked the representatives of the Commission for their positive statement and noted the interest of the Commission in cooperating with UPOV with a view to avoiding duplication of effort in the establishment of international systems in the field of plant variety protection.

Fees in Relation to Cooperation in Examination

19. Discussions were based on document CAJ/III/4 and on the summary conclusions of a meeting of experts which met on April 23, 1979 (see Annex IV).

20. The Committee adopted in principle the proposals appearing in Annex IV, subject to possible further consideration of the level of the target fees. In view of the necessity of amending existing bilateral agreements on cooperation in examination before the new system could be put into effect, the Committee decided that a draft Recommendation on Fees in Relation to Cooperation in Examination should be prepared by the Office of the Union, adopted by the Committee by correspondence and submitted to the Council at its next ordinary session.

UPOV Model Plant Breeders' Rights Gazette

21. Discussions were based on document CAJ/III/3.

22. After having noted a proposal by the Delegation of Italy that the gazettes include variety descriptions established in accordance with the Test Guidelines and the General Introduction thereto, the Committee adopted the UPOV Model Plant Breeders' Rights Gazette for publication as appearing in document CAJ/III/3, subject to some minor corrections and improvements.

Transmittal of Examination Reports to Non-Member States

23. On a proposal by the Delegation of the Netherlands, the Committee agreed that the Consultative Committee should be asked to reconsider present practice regarding the transmittal of examination reports to non-member States, in particular in the context of the proposed new system of fees in relation to cooperation in examination.

Date and Program for the Fourth Session of the Committee

24. The Committee agreed to hold its fourth session from November 14 to 16, 1979, and to deal with the following items in particular--item (i) being given priority over the others:

- (i) Development of the Union
- (ii) UPOV Model Plant Variety Protection Law
- (iii) UPOV Model Interim Report on the Examination of a Variety.

[Four Annexes follow]

LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS/TEILNEHMERLISTE

I. MEMBER STATES/ETATS MEMBRES/VERBANDSSTAATENBELGIUM/BELGIQUE/BELGIEN

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- Mr. R. KÄMPF, Sektionschef im Eidgenössischen Amt für geistiges Eigentum, Einsteinstr. 2, 3003 Bern

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- Mr. D. HICKEY, Assistant Principal, Department of Agriculture, Kildare Street, Dublin 2
- Mr. D. FEELEY, Agricultural Inspector, Department of Agriculture, Kildare Street, Dublin 2

JAPAN/JAPON/JAPAN

- Mr. H. SHIRAI, First Secretary, Permanent Delegation of Japan in Geneva, 10, avenue de Budé, 1202 Geneva
- Mr. K. OIKAWA, Deputy Director, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, Chiyoda-Ku Kasumigaseki 1-2-1, 100 Tokyo

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- Mr. J. RAMÓN PRIETO, Consejero de Agricultura, Delegación Permanente de España, 72, Rue de Lausanne, Geneva

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE/VEREINIGTE STAATEN VON AMERIKA

Mr. B.M. LEESE Jr., Commissioner, Plant Variety Protection Office, Agricultural Marketing Service, Beltsville, Md.

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V. OFFICE OF UPOV/BUREAU DE L'UPOV/BÜRO DER UPOV

Dr. A. BOGSCH, Secretary-General

Dr. H. MAST, Vice Secretary-General

Dr. M.-H. THIELE-WITTIG, Senior Technical Officer

Mr. A. WHEELER, Legal Officer

Mr. A. HEITZ, Administrative and Technical Officer

[Annex II follows/
L'annexe II suit/
Anlage II folgt]

CAJ/III/9

ANNEX II

UPOV MODEL FORM FOR THE INVOICING OF
EXAMINATION COSTS¹

We are charging you the following for the examination reports relating to the following varieties transmitted to you:

herewith

under separate cover

Your application number	Your Denomination/ Breeder's Reference	Type of report	Amount .
<i>Triticum aestivum</i> (Wheat)			
E 431	T 34	Final	225£ + 175£ = 400£
E 456	Dabo	Final	175£
E 500	W 123	Interim	225£
<i>Hordeum vulgare</i> L. (Barley)			
B 12	Flora	Final	700 DM x 2 = 1.400 DM
B 15	Fauna	Final	1.400 DM
B 16	M 5	Interim	700 + 200* = 900
B 19	M 7	Interim	900**
<i>Rosa</i> L. (Rose)			
R 15	Beauty	Final	1200
			Total:

Remarks:

* Special test on

** Including cost of special test on

Conditions and mode of payment: [To be filled in by each member State]

Date

Signature

[Annex III follows]

¹ Sample entries have been included (*in italics*) in the table by way of illustration.

UPOV FORM/FORMULAIRE DE L'UPOV/UPOV-FORMBLATT

From/De/Von

Your ref./Votre réf./Ihr Zeichen_____
Our réf./Notre réf./Unser Zeichen

Observations on a Submitted Variety Denomination Observations sur une dénomination variétale déposée Bemerkungen zu einer angemeldeten Sortenbezeichnung
--

To/A/An

Variety Denomination:
Dénomination variétale:
Sortenbezeichnung:

Species (Latin name):
Espèce (nom latin):
Art (botanische
Bezeichnung):

Bulletin:
Amtsblatt:_____
(Year/Année/Jahr) (Month/Mois/Monat) (Page/Seite)Applicant:
Demandeur:
Anmelder:

Observations:
Bemerkungen:

If the observations refer to a trademark or another right, name and address of the holder thereof (if possible):
 Si les observations se réfèrent à une marque de fabrique ou à un autre droit, nom et adresse de son titulaire (si possible):
 Falls sich die Bemerkungen auf ein Warenzeichen oder ein anderes Recht beziehen, Name und Anschrift des Inhabers (falls möglich):

Copies to the competent authorities of the other UPOV member States.
 Copies aux services compétents des autres Etats membres de l'UPOV.
 Kopien an die zuständigen Behörden der anderen UPOV-Verbandsstaaten.

Date/Datum:

Signature/Unterschrift:

[Annex IV follows/
 L'annexe IV suit/
 Anlage IV folgt]

SUMMARY CONCLUSIONS OF A MEETING OF EXPERTS ON FEES

held on April, 23, 1979

In a preliminary discussion, held on April 23, 1979, a group of experts formulated the following suggestions:

CASE I:

Examinations conducted by the authority of one member State at the request of the authority of another member State

1. In such cases the examination is conducted by the examining authority solely at the request of the authority of the other member State. It thus seems justifiable that the examining authority should receive a consideration equal to the normal fee payable for an examination at the national level. Such consideration would be payable by the authority requesting the examination. That authority would charge the applicant a fee which should, as far as possible, be identical with such consideration.

2. The functioning of the above system would require the examination fees for at least the most important genera and species to be fixed at about the same level in the various member States. The group of experts envisaged for this purpose the following target fees for two-year examinations:

a) agricultural crops	1.350 SF
b) vegetables	700 SF
c) fruit trees	700 SF
d) ornamentals	900 SF

3. These target fees could apply to those species of the above groups which are the most important from the economic point of view. Consideration could be given to reducing these target fees for species of lesser economic importance.

CASE II:

Where the authority of one member State takes over existing examination results from the authority of another member State

4. In such cases the examining authority would already have received its normal examination fee, but generally such fee would not have covered the total cost of examination. The group of experts therefore considered it undesirable that the examining authority should receive a further normal examination fee. It nevertheless thought it justifiable that the examining authority should be paid a fixed consideration by the receiving authority. The experts had in mind a consideration of some 300 to 400 Swiss francs.

5. At the same time the experts would recommend the introduction into national legislation of an administrative fee payable by applicants which should at least equal the fixed consideration payable by the receiving authority to the examining authority.

[End of document]